

# Confidentiality and Privacy of Student Health Information

Task Force to Study Electronic  
Health Records  
June 12, 2006

# Presentation Objectives

Participants will:

- Acquire information about FERPA and school health records
- Acquire information about HIPAA and school health records
- Identify issues related to the use of electronic health information exchange on school health records

CONFIDENTIAL

CUMULATIVE

HEALTH

SPECIAL EDUCATION

PSYCHOLOGICAL

STUDENT RECORDS – ALL  
RECORDS BELONGING TO A  
STUDENT ARE CONSIDERED  
CONFIDENTIAL AND ONE RECORD

# Student Health Records

- Considered “educational records”
- Governed by the Family Educational Rights and Privacy Act (FERPA)
- FERPA requires confidentiality of educational records
- FERPA allows parents to access all of their children’s education records

# Student Health Records

- FERPA does not defer to state laws regarding minor consent
- FERPA protects the privacy of education records in schools receiving federal funds and those records are exempt from HIPAA

# Minor Consent

- Minors in Maryland have the capacity to consent to:
- TX for/advice about:
  - ETOHism
  - Drug abuse
  - STIs
  - Pregnancy
  - Contraception (not sterilization)



# Minor Consent

- Minors in Maryland have the capacity to consent to:
  - Physical exam and tx of injuries from alleged rape or sexual offense
  - Initial medical screening/physical exam on and after admission into detention center



# Emancipated Minor

- An issue of local determination
- The terminology is not defined in State law or regulation
- Local school systems develop their own policies on emancipation



# Student Health Records

- FERPA does not distinguish between student health records and other education records
- Some school systems may be hybrids where HIPAA or FERPA may cover specific areas of the organization

# Student Health Records

- Maintained until age 21.
- Students without immunization records have 20 calendar days to complete required immunizations.
- If not completed, student is *excluded*.
- Entire health record is sent with a student who transfers.
- Students enrollment must be followed to track required immunization records.

# School-based Health Center Records

- School-based health center (SBHC) health records are independent from student education records
- SBHCs are considered HIPAA covered entities if they electronically submit student health data

# HIPAA and FERPA

- Safeguards protected health information (PHI)
- Does not apply to FERPA governed education records
- Permits disclosure of PHI with a valid authorization
- Protects education records ("legitimate educational interest")
- HIPAA privacy rule may affect how health care providers share PHI
- LSS consent forms to covered entities must have valid elements

# Immunizations

- HIPAA does not specifically address disclosure of immunization information
- HIPAA permits disclosure of PHI by a public health authority for certain purposes e.g.,:
  - Preventing/controlling disease or injury
  - Vital events: birth and death
  - Communicable disease exposure
  - Child abuse/neglect reporting

# IMMUNET

- DHMH has an electronic database containing immunizations of children
- School nurses are being trained to use this database
- School nurses do not have writing privileges, but can view the database

# Medication/Treatment Orders

- Need to use Privacy Rule valid authorization to request orders from HIPAA covered entities
- Valid authorization also required when requesting medical records

# HIPAA and Schools



- Health and Human Services and the Office of Civil Rights have not provided written guidance for schools
- An education facility may voluntarily elect to give student health records any additional protections accorded under HIPAA, in addition to complying with FERPA



# Role of the School Nurse

- Know the federal and state laws, regulations, and guidelines related to privacy of student health information
- Inform school administrators and colleagues about the above
- Inform students and parents about their rights to privacy and limitations to those rights

Adapted from NASN Issue Brief *Privacy Standards for Student Health Records*

# Role of the School Nurse (cont.)

- Provide suggested language for policy and procedures that enhance staff compliance
- Look for opportunities to assist with staff training updates regarding confidentiality and privacy of student health records
- Ensure that health room procedures, records, and equipment are adequately secured

Adapted from NASN Issue Brief *Privacy Standards for Student Health Records*

# Role of the School Nurse (cont.)

- Use functional health problems (i.e., standardized nursing diagnoses) in 504 plans, IEPs, and individualized health care plans to communicate student health and safety needs
- Use functional health problems instead of medical diagnoses whenever possible
- Distribute individualized plans to appropriate staff instead of circulating lists of students with medical conditions

Adapted from NASN Issue Brief *Privacy Standards for Student Health Records*

# Questions

